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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35924]

Boot Hill & Western Railway Holding Co., Inc.—Acquisition and Operation

Exemption—Boot Hill & Western Railway Co., LC

Boot Hill & Western Railway Holding Co., Inc. (Holding), a noncarrier holding company, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.31, to acquire and operate approximately 10.2 miles of rail line owned by Boot Hill & Western Railway Co., LC (BHWR), a Class III rail carrier, extending between milepost 15.8, at or near Wilroads, and milepost 26.0, at Dodge City, in Ford County, Kan. Holding also seeks Board approval to acquire from BHWR the right to reactive common carrier rail service on an approximately 15.8-mile contiguous railbanked rail line, extending between milepost 0.0, at or near Bucklin, and milepost 15.8, at or near Wilroads, in Ford County, Kan.¹ In a prior notice, BHWR was issued a notice of interim trail use or abandonment (NITU) over this portion of the line.

This transaction is related to a concurrently filed verified notice of exemption in Michael Williams—Continuance in Control Exemption—Boot Hill & W. Ry. Co., LC,

¹ Boot Hill & W. Ry.—Aban. Exemption—In Ford Cnty., Kan., AB 927X (STB served Feb. 13, 2006). On April 24, 2015, BHWR and Holding jointly filed a motion to substitute Holding as the interim trail sponsor and remove BHWR. That motion will be addressed in a separate decision.

Docket No. FD 35925. Holding may not consummate this transaction until that notice also becomes effective.

According to Holding, the acquisition will allow continued rail operations over the remaining 10.2 miles of active rail line and will not result in significant changes to carrier operations. Holding states that the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded, therefore no environmental documentation is required.

Holding certifies that the projected annual revenues as a result of this transaction will not result in Holding becoming a Class II or Class I rail carrier and that its annual revenue will not exceed \$5 million.

The earliest the transaction could be consummated is May 24, 2014, the effective date of the exemption (30 days after the exemption was filed). The parties expect to consummate the transaction on the later of May 27, 2015, or the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by May 18, 2015 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35924, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Charles H. Montange, Law Offices of Charles H. Montange, 426 NW 162d St., Seattle, WA 98177.

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Decided: May 7, 2015.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.